



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0064; Notice 2; Docket No. NHTSA-2018-0005; Notice 2]

Autocar Industries, LLC and Hino Motors Sales U.S.A., Inc., Grant of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petitions.

SUMMARY: Autocar Industries, LLC (Autocar Industries) and Hino Motors Sales U.S.A., Inc., (Hino), have determined that certain model year (MY) 2014-2018 Autocar Xpert trucks and certain MY 2014-2018 Hino heavy-duty trucks do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays*. The petitioners have requested that NHTSA deem the subject noncompliances inconsequential to motor vehicle safety. This notice announces the grant of these petitions.

FOR FURTHER INFORMATION CONTACT: Joshua Campbell, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5307, facsimile (202) 366-3081.

SUPPLEMENTARY INFORMATION:

I. Overview

Autocar Industries has determined that certain MY 2014-2018 Autocar Xpert trucks do not fully comply with Table 2 of FMVSS No. 101, *Controls and Displays* (49 CFR 571.101). Autocar Industries filed a report dated June 12, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Autocar Industries also petitioned NHTSA on June

19, 2017, and later submitted a supplemental petition on August 29, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety. Notice of receipt of Autocar Industries' petition was published with a 30-day public comment period on August 16, 2017, in the **Federal Register** (82 FR 38997). No comments were received.

Hino has determined that certain MY 2014-2018 Hino heavy duty trucks do not fully comply with the requirements of Table 2 of FMVSS No. 101, *Controls and Displays*. Hino filed a report dated December 11, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Hino also petitioned NHTSA on December 21, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety. Notice of receipt of Hino's petition was published with a 30-day public comment period on February 22, 2018, in the Federal Register (83 FR 7846). No comments were received.

II. Vehicles Involved

Approximately 522 MY 2014-2018 Autocar Xpert trucks, manufactured between September 05, 2013 and September 05, 2017, are potentially involved.

Approximately 30,025 MY 2014-2018 Hino NJ8J, NV8J, and NH8J heavy-duty trucks, manufactured between September 1, 2013, and October 30, 2017, are potentially involved.

III. Noncompliance

The petitioners explain that the subject noncompliance is the low brake air pressure telltale for air brake systems displays the International Standards Organization (ISO) symbol for

brake malfunction rather than the words “Brake Air” as specified in Table 2 of FMVSS No. 101. Both petitioners stated that the ISO telltale is accompanied by an audible alert and pressure gauges.

IV. Regulatory Requirements

Paragraphs S5 and S5.2.1 of FMVSS No. 101 include the requirements relevant to this petition:

- Each passenger car, multipurpose passenger vehicle, truck and bus that is fitted with a control, a telltale, or an indicator listed in Table 1 or Table 2, must meet the requirements of FMVSS No. 101 for the location, identification, color, and illumination of that control, telltale or indicator.
- Each control, telltale, and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2.

V. Summary of Petitions

The petitioners described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety. In support, the petitioners submitted the following arguments:

1. Both petitioners noted that the purpose of the low brake air pressure telltale is to alert the driver to a low air condition, consistent with the requirements of FMVSS No. 121, S5.1.5 (warning signal). The vehicles in question display the ISO symbol for brake malfunction instead of “Brake Air,” along with an audible alert that would alert the driver to an air issue with the brake system. Once alerted, the driver can check the actual air pressure by

reading the primary and secondary air gauges and seeing the contrasting color on the gauges indicating low pressure.

2. Autocar Industries cited that in a 2005 FMVSS No. 101 rulemaking, NHTSA stated that the reason for including vehicles over 10,000 pounds GVWR in the application of the standard is that drivers of heavier vehicles need to see and identify their displays just like drivers of lighter vehicles. See 70 FR 48295, 48298 (Aug. 17, 2005). Drivers of commercial vehicles conduct pre-trip daily inspections. For vehicles with pneumatic brake systems, there is an in-cab air brake diagnostic that checks for a warning light and buzzer at 60 PSI, and this would familiarize the driver with the specific telltale and audible warning used in the event a low-air condition occurred during operation.
3. Hino stated that when the air pressure drops below 79 psi, the ISO symbol illuminates and the audible alert sounds, both of which are described in the Driver's/Owner's Manual of the subject vehicles. Therefore, even if the telltale does not use the required "Brake Air" display, the driver is alerted that the air pressure is low.
4. Both petitioners noted that there are two scenarios when a low brake air pressure condition could exist: a parked vehicle and a moving vehicle. In both conditions, the driver would be alerted to a low-air condition by the following means:
 - Red contrasting color of the ISO brake malfunction telltale.
 - Audible alert to the driver as long as the vehicle has low air (and park brake is released).
 - Dual indicator air pressure gauge for the primary and secondary air reservoirs, clearly indicating the level of air pressure in the system.
 - Red contrasting color on the air gauges indicating low air pressure.

The functionality and performance of both the parking brake system and the service brake system remain unaffected by using the ISO symbol for brake malfunction instead of “Brake Air” for the telltale in the subject vehicles.

5. NHTSA Precedents – The petitioners noted that NHTSA has previously granted petitions for decisions of inconsequential noncompliance for the following similar brake telltale issues:

- Docket No. NHTSA-2017-0011, 82 FR 33551 (July 20, 2017), grant of petition for Daimler Trucks North America, LLC.
- Docket No. NHTSA-2014-0046, 79 FR 78559 (December 30, 2014), grant of petition for Chrysler Group, LLC.
- Docket No. NHTSA-2012-0004, 78 FR 69931 (November 21, 2013), grant of petition for Ford Motor Company.
- Docket No. NHTSA-2017-011, 82 FR 33551 (July 20, 2017), Grant of Petition for Decision of Inconsequential Noncompliance for Daimler Trucks North America, LLC.

In these instances, the vehicles displayed an ISO symbol for the brake telltale instead of the wording required under FMVSS No. 101. The ISO symbol, in combination with other available warnings, was deemed sufficient to provide the necessary driver warnings.

The petitioners concluded by expressing their belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that NHTSA should grant their petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120.

The petitioner's complete petitions and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and following the online search instructions to locate the docket numbers listed in the title of this notice.

VI. NHTSA's Analysis

NHTSA has considered the arguments presented by the petitioners and has determined that the subject noncompliance is inconsequential to motor vehicle safety. NHTSA believes that the subject noncompliance poses no risk to motor vehicle safety because multiple sources of information, as described in the petition and discussed below, are simultaneously activated to warn the driver of a low air pressure condition in the brake system.

1. When a low air pressure situation exists, for both a parked or moving vehicle, the ISO symbol will illuminate in red with a black background. The petitioner's use of red is an accepted color representing an urgent condition and provides a definitive indication of a situation that needs attention.
2. Simultaneous to illumination of the ISO symbol is activation of an audible alert, further notifying the operator that a malfunction exists, requiring corrective action. Although the alert would not, in and of itself, identify the problem, a driver would be prompted by the warning tone to heed the telltale (i.e. ISO symbol).
3. In a low-pressure situation, the operator is provided additional feedback by the primary and secondary instrument cluster air gauges which are marked with numerical values in PSI units along with red contrasting colors on the gauges during a low-pressure condition.

4. Further, NHTSA agrees with the petitioners that the functionality of the parking brake system and the braking performance of the service brake system remain unaffected by use of the ISO symbol instead of the words "Brake Air" on the subject vehicles.
5. Lastly, NHTSA believes that, as the affected trucks are predominately used as commercial vehicles with professional drivers, operators will monitor their vehicle's condition and take note of any warning signs and gauge readings to ensure proper functionality of all systems. The petitioners stated, and the agency agrees, that professional drivers will become familiar with the meaning of telltales and other warnings and that the feedback provided to the driver in these vehicles, if a low brake pressure condition exists, would be well understood. This learning process is reinforced by the in-cab function check for the brake pressure telltale and audible warning.
6. The ISO symbol has been used on U.S.-certified vehicles for many years. If the driver is not familiar with its meaning, the Owner's manual can be referenced which will explain the relationship with the brake system. Over time, the ISO symbol has evolved to become increasingly recognizable and understandable to drivers so if it is activated, they would likely be alerted to a possible brake system malfunction which needs to be remedied.

NHTSA concludes that simultaneous activation of the red ISO symbol with a black contrasting background, an audible alert for a low air pressure condition, along with the primary and secondary air gauge indicators, and the reduced drivability of the vehicles under a low air pressure condition, provide adequate notification to the operator that a brake malfunction exists.

NHTSA further concludes that the discrepancy with the telltale requirement is unlikely to lead to

any misunderstanding since other sources of correct information beyond the “Brake Air” telltale are provided when a low air pressure condition exists.

VII. NHTSA’s Decision

In consideration of the foregoing, NHTSA finds that Autocar Industries and Hino have met their burden of persuasion that the FMVSS No. 101 noncompliance is, in each case, inconsequential as it relates to motor vehicle safety. Accordingly, Autocar Industries and Hino’s petitions are hereby granted, and they are exempted from the obligation to provide notification of and remedy for, the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that Autocar Industries and Hino no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Autocar Industries and Hino notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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